

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

March 5, 2003

Docket No. 2002-497

WEST PENOBSCOT TELEPHONE
COMPANY
Request for Universal Service Funding

ORDER APPROVING
UNIVERSAL SERVICE
FUNDING AMOUNT

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

Pursuant to 35-A M.R.S.A. § 7104 and Chapter 288 of the Commission's Rules, in this Order we find that West Penobscot Telephone Company (West Penobscot) is entitled to receive \$789,657 on an annual basis from the Maine Universal Service Fund (MUSF), effective June 1, 2003. Payment of the support amount from the MUSF will occur according to the provisions of Chapter 288 of the Commission's Rules and the procedures established by the MUSF Administrator. The Company has satisfied all of the requirements for receiving support from the MUSF, including the completion of a rate case proceeding within the time period specified in Chapter 288.

In that rate case, Docket # 2000-812, the Commission approved a stipulation under which West Penobscot, on June 4, 2001, adjusted its access rates to an amount that exceeded the NECA 5 level effective in 1999 and increased its basic residential exchange rates by approximately 50% of the difference between its then current rates and those of Verizon Maine for exchanges of the same size. Business exchange rates were set at approximately 150% of the increased residential rates.

Pursuant to the requirements of 35-A M.R.S.A. § 7101-B, and Chapter 288, § 3 of the Commission's Rules, West Penobscot, effective June 1, 2003, will reduce its access rates to the level of its interstate rates contained in the NECA 5 tariff that became effective on July 2, 2002.

Chapter 288, § 3 (B)(3) requires recipients of USF to establish rates for local exchange service that are at least equal to those of Verizon, subject to the exception contained in Section 3(C)(2), which allows carriers to phase in those rates over no more than 3 years. We allow an exception in this case so that further local rate increases for West Penobscot customers will coincide with increases in local Basic Service Calling Areas (BSCA), the addition of all contiguous exchanges pursuant to changes in the Commission's BSCA Rule, Chapter 204. These changes are expected to occur in the fall of 2003. Within 60 days following this Order, West Penobscot shall file a plan under which it will increase its local rates the rest of the way to Verizon levels. The Commission must review and approve the plan. We will approve a plan under which the Company proposes to implement rates equal to those of Verizon at the time that the BSCA changes are implemented. If the Company proposes some other plan, it shall

provide full justification with the filing of the plan.¹ At the time the Company's local rates are increased, the amount the Company receives from the MUSF will decrease to offset the revenue gains resulting from the increases.

In approving this exception, we do not lose sight of the fact that the direct result of any delay is to require customers in the state as a whole to pay higher universal service surcharges (and possibly local exchange rates) so that West Penobscot customers can pay less. Subsidy systems such as the USF are much more easily justified where all are paying the same rate for comparable service or "comparable rates for comparable service." The legitimate function of the MUSF is to provide a subsidy to offset those costs of certain companies that are higher than can be supported by reasonable local rates that are comparable to those of carriers that do not require a subsidy. It is not the function of the USF to provide an additional subsidy that allows customers of the subsidized companies to enjoy local rates that are lower than the rates paid by most of the customers providing the subsidy. It is for this reason that the MUSF Rule requires USF recipients to establish rates equal to those of Verizon.

Accordingly, we

O R D E R

1. That until further order of the Commission, West Penobscot Telephone Company shall receive \$789,657 annually in universal service funding from the Maine Universal Service Fund, beginning on June 1, 2003 (pro-rated in 2003) and paid as specified in Chapter 288;

2. That West Penobscot Telephone Company shall file a plan for increasing its local exchange service rates to Verizon levels within 60 days following this Order; and

3. West Penobscot Telephone Company shall file with the Commission revised access rate pages that are consistent with the requirements of this order.

¹ If the Legislature enacts emergency legislation that amends 35-A M.R.S.A. § 7101-B, the provisions of the amended statute may be taken into account by a company that proposes a plan different from that which we have indicated above is acceptable. Nevertheless, the Company should provide specific justification for the amounts and timing of any alternate plan it may propose. Very substantial dollar increases in specific rates may be offered as justification for later step increases for those rates. Very substantial percentage increases may also be relevant, but, if the starting point is from a very low rate, the amount of increase in dollars will be more relevant.

Dated at Augusta, Maine, this 5th day of March, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.